IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4367 of 2007()

CMP.1289/2007 of J.F.C.M. IV, NEYYATTINKARA

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REVN. PETITIONER: 2ND ACCUSED:

R. MOHANDAS,
SEN BHAVAN, EDAGRAMOM, PAPPANAMCODE P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT:

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1. BIPINDAS, S/O. YESUDASAN,
THIRUVONAM, KRISHNAPURAM, NEYYATTINKARA P.O.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P. RAVEEDDRA BABU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 4367 of 2007

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Dated: 07-12-2007

ORDER

Petitioner who is the accused in C.C. 668 of 2005 on the file of the J.F.C.M-IV, Neyyattinkara challenges the order dated 25-10-2007 passed by the Magistrate in C.M.P. No. 1289 of 2007. The address of the 2nd respondent/2nd accused as shown in the complaint is R. Mohandas, Sen Bhavan, Edagramom, Pappanamcode P.O. But the statutory notice which preceded the complaint was issued in the following address:

> R.Mohandas, Ben Bhavan, Edagramam
> Pappanamcode P.O.

Since the address of the 2nd accused as shown in the complaint was not "Ben Bhavan" , but "Sen Bhavan", the complainant filed C.M.P. 1289 of 2007 for correction of the address to make it in conformity with the address shown in the statutory notice. Eventhough the said application was opposed by the revision petitioner, the court below as per the impugned order allowed the same. Hence, this Revision.

2. The learned counsel for the revision petitioner submitted that the correct address of the 2nd accused is "Sen Bhavan" whereas the statutory notice was issued to "Ben Bhavan" and was received by

somebody else. But summons issued to the 2nd accused in the address shown as "Sen Bhavan" as was originally shown in the complaint was received by the 2nd accused since "Sen Bhavan" is the correct address. The contention is that if Sen Bhavan shown in the complaint is allowed to be corrected as Ben Bhavan , it will prejudice the defence which the a 2nd accused would be entitled to take and the complainant would be requesting the court to draw a presumption that notice issued to the correct address had been duly served.

3. I fail to understand as to how the complainant would be entitled to take shelter under the presumption if the correct address of the revision petitioner is "Sen Bhavan" and if notice sent to "Ben Bhavan" was actually received not by the 2nd accused but by a stranger. Notwithstanding the amendment of the cause title in the complaint, the revision petitioner will be entitled to contend that the statutory notice was not issued to him in his correct address.

This Crl. Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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